

IN THE DISTRICT COURT OF PAYNE COUNTY  
STATE OF OKLAHOMA

IN THE DISTRICT COURT OF  
Payne County, Oklahoma  
**FEB 05 2019**  
BY: LORI ALLEN, Court Clerk  
Deputy

THE ESTATE OF LAURA RATLEY, by  
and through its duly appointed special  
administrators Robert Ratley and ROBERT  
RATLEY and AMY RATLEY as heirs at  
law of Laura Ratley, deceased, LEAH  
RATLEY, THE ESTATE OF REBECCA  
FULCHER, by and through its duly  
appointed special administrators John  
Fulcher and Amy Fulcher, and JOHN  
FULCHER AND AMY FULCHER as heirs  
at law of Rebecca Fulcher and Ryan  
Fulcher,

Plaintiffs,

v.

DHAHER M. AWAD, and SHAMROCK  
FARMS COMPANY, an Arizona Limited  
Liability Company.

Defendants,

Case No.: CJ-2019-2

ATTORNEY LIEN CLAIMED

**AMENDED PETITION**

**COMES NOW**, the Plaintiffs, the Estate of Laura Ratley, by and through its duly appointed special administrator Robert Ratley, Robert Ratley and Amy Ratley, as heirs at law of Laura Ratley, deceased, and Leah Ratley, and the Estate of Rebecca Fulcher, by and through its duly appointed special administrator John Fulcher and Amy Fulcher and John Fulcher, Amy Fulcher and Ryan Fulcher as heirs at law of Rebecca Fulcher, deceased and Ryan Fulcher.

**PARTIES, JURISDICTION AND VENUE**

1. The Estate of Laura Ratley has been duly opened in Reno County, Kansas and Robert Ratley has been appointed as Special Administrator;
2. Robert Ratley is an individual and is a resident of the State of Kansas, Robert Ratley is the father and an heir at law of Laura Ratley;

3. Amy Ratley is an individual and is a resident of the State of Kansas. Amy Ratley is the mother and an heir at law of Laura Ratley;
4. Leah Ratley is an individual, resident and citizen of the State of Kansas;
5. The Estate of Rebecca Fulcher has been duly appointed in Payne County, State of Oklahoma and John and Amy Fulcher have been appointed co-special administrators.
6. John Fulcher is an individual and is a resident of Kansas. John Fulcher is the father and an heir at law of Rebecca Fulcher;
7. Amy Fulcher is an individual and is a resident of the State of Kansas. Amy Fulcher is the mother and an heir at law of Rebecca Fulcher;
8. Ryan Fulcher is an individual and is a resident of the State of Kansas;
9. Defendant Dhafer M. Awad is an individual, resident, and citizen of the State of Arizona. Dhafer M. Awad may be served with process at his residential address of 3002 North 70<sup>th</sup> Street, Unit 218, Scottsdale, Arizona 85251;
10. That Defendant Dhafer M. Awad was hired by Defendant Shamrock Farms Company and was driving a Shamrock Farms Company tractor trailer at the time of the wreck; That Plaintiffs believe, and therefore alleges, that Defendant Dhafer M. Awad was at all material acting individually and as a servant, representative, agent and/or employee within the scope of his employment or agency of Shamrock Farms Co;
11. Shamrock Farms Company is an Arizona Limited Liability Company. Shamrock Farms Company maybe served with process by serving its registered agent for services of process, John R. Christian c/o Jennings, Strouss & Salmon, One E, Washington St. Suite 1900, Phoenix, Arizona 85004;
12. The wreck occurred in Noble County.
13. Laura Ratley and Rebecca Fulcher were transferred by ambulance from the scene of the wreck to Stillwater Medical Center in Payne County for medical attention where they were pronounced dead on arrival;
14. This Court has subject matter jurisdiction over the matter and personal jurisdiction over the parties;
15. Venue is proper in this County;

### **FIRST CAUSE OF ACTION**

16. That Plaintiffs adopts and re-alleges the allegations contained in paragraphs 1-14 above as if set forth fully herein and states further as their first cause of action;
17. On April 5, 2017, Defendant Dhafer Awad (hereinafter referred to as "AWAD") was operating a Tractor and Trailer and was parked on the westbound shoulder of the Cimarron Turnpike (Highway 412) at or near the mile marker #7 in Noble County, State of Oklahoma;
18. That there was ample room on the shoulder for the Defendant's AWAD tractor trailer to be parked in a safe location and a safe distance from the roadway;
19. That Defendant AWAD chose not to pull his tractor trailer off the roadway to a safe location before parking;
20. That Defendant AWAD chose to park the Tractor Trailer on the Cimarron Turnpike, on the right side of the roadway, with the left side of the Tractor Trailer on the rumble strip;
21. That Defendant AWAD knew that by parking the Tractor Trailer on the rumble strip he was taking away a safety device which is intended to protect travelers on the roadway, so choosing to park in this location Defendant AWAD knowingly created a dangerous situation for other west bound motorists;
22. That Plaintiff Ryan Fulcher was westbound on the Cimarron Turnpike with Leah Ratley, Laura Ratley and Rebecca Fulcher as passengers;
23. That as Ryan Fulcher approached the parked Tractor Trailer, Mr. Fulcher drifted onto the shoulder of the westbound lane of Cimarron Turnpike. However, instead of the rumble strips alerting him that he was drifting off the roadway, Mr. Fulcher hit the Tractor Trailer parked on the rumble strips by Defendant AWAD;
24. Laura Ratley died as a result of the injuries which she suffered when the vehicle in which she was a passenger hit the Tractor Trailer which was dangerously parked on the rumble strips while Defendant AWAD was sleeping;
25. Rebecca Fulcher died as a result of the injuries which she suffered when the vehicle in which she was a passenger hit the Tractor Trailer which was dangerously parked on the rumble strips while Defendant AWAD was sleeping;
26. That Leah Ratley and Ryan Fulcher have suffered physical and emotional injuries as a result of the wreck;

27. That Defendant AWAD was negligent in operating his Tractor Trailer;
28. That Defendant AWAD was negligent in parking his Tractor Trailer on the shoulder of the westbound lane of the Cimarron Turnpike rather than a nearby rest stop or another safe parking area;
29. That Defendant AWAD was negligent in parking his Tractor Trailer rig on top of the rumble strips;
30. That Defendant AWAD was negligent in not parking his Tractor Trailer on the right shoulder in a safe location;
31. That Defendant AWAD was negligent in improperly parking and in other ways;
32. That Defendant AWAD was negligent in creating a dangerous condition for those who were driving on Cimarron Turnpike in the early morning hours of April 5, 2017;
33. That Defendant AWAD's actions were negligent, wanton and reckless;
34. That always material hereto, Defendant AWAD was in the course and scope of employment of the Defendants Shamrock Farms Company (hereinafter referred to as "SHAMROCK");
35. That Defendant SHAMROCK is vicariously liable for the negligent, willful, wanton, reckless and unlawful actions of Defendant AWAD under the doctrine of respondent superior;
36. Defendant SHAMROCK was negligent, wanton, reckless in one or more of the following, or other respects:
  - a. Violation of the Federal Motor Carrier Safety Regulations in one or more of the following, or other, respects:
    - i. Allowing the Defendant Awad to drive without proper qualifications;
    - ii. Conducting an inadequate background check and application investigation;
    - iii. Not properly updating driving records;
    - iv. Not performing a proper annual driver review;
    - v. Not keeping an active proper employment or driver qualification file;
    - vi. Not keeping proper log books;
    - vii. Not following hours of service rules;
  - b. Entrusting the semi-Tractor Trailer to Defendant AWAD

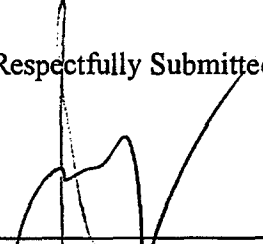
37. Defendants' actions and inactions were outrageous and reckless, with a complete indifference to or conscious disregard for the safety of others;
38. Defendants' actions or inactions warrant a claim of punitive damages against each of the Defendants;
39. That as a result of Defendants' negligent, willful, wanton, reckless and unlawful actions and inactions, Laura Ratley and Rebecca Fulcher have died;
40. The Estate of Laura Ratley brings this action for all damages which are proper under Oklahoma Law. Estate of Laura Ratley brings prays for judgement against Defendants in the amount of excess of \$75,000.00;
41. That Robert Ratley and Amy Ratley bring this action for the wrongful death of their daughter. Robert and Amy Ratley each pray for judgement against Defendants in an amount in excess of \$75,000.00;
42. That the Estate of Rebecca Fulcher brings this action for all damages which are proper under Oklahoma Law. Estate of Rebecca Fulcher brings prays for judgement against Defendants in the amount of excess of \$75,000.00.
43. John Fulcher and Amy Fulcher bring this action for the wrongful death of their daughter. John Fulcher and Amy Fulcher pray for judgement against each of the Defendants in an amount in excess of \$75,000.00;
44. That Leah Ratley brings this action for past and future medical expenses, pain and suffering, disability, mental anguish, and all other damages which are proper under Oklahoma Law. Leah Ratley prays for judgement against each of the Defendants in an amount in excess of \$75,000.00;
45. That Ryan Fulcher brings this action for past and future medical expenses, pain and suffering, disability, mental anguish, and all other damages which are proper under Oklahoma Law. Ryan Fulcher prays for judgement against Defendants in an amount less than \$75,000.00;
46. That the damages suffered by each of the Plaintiffs were the proximate and directly caused by the negligent, willful, wanton, reckless and unlawful actions or inactions of the Defendants;

Wherefore, the Plaintiff's, The Estate of Laura Ratley, The Estate of Rebecca Fulcher, Leah Ratley, Robert Ratley, and Amy Ratley, John Fulcher, and Amy Fulcher pray for Judgement

against each of the above-named Defendants for their injuries and damages as described herein, in excess of \$75,000.00, and Ryan Fulcher prays for judgement for less than \$75,000.00, for punitive damages, plus costs and for such other and further relief as the Court deems just and equitable.

Respectfully Submitted,

By:



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